

# **EXHIBIT AR**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 - - -

4 IN RE: TERRORIST ATTACKS : 03-MDL-1570  
5 ON SEPTEMBER 11, 2001 : (GBD) (SN)

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10 JULY 22, 2021

11 THIS TRANSCRIPT CONTAINS  
12 CONFIDENTIAL MATERIAL

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17 Remote Videotaped  
18 Deposition, taken via Zoom, of JONATHAN  
19 MARKS, commencing at 9:00 a.m., on the  
20 above date, before Amanda  
21 Maslynsky-Miller, Certified Realtime  
22 Reporter and Notary Public in and for the  
23 Commonwealth of Pennsylvania.

24

25

26

27 GOLKOW LITIGATION SERVICES  
28 877.370.3377 ph| 917.591.5672 fax  
29 deps@golkow.com

30

31

1 A. I have.

2 Q. On how many occasions?

3 A. Between five and ten times.

4 Q. Just to review the ground  
5 rules for today, the court reporter will  
6 be taking down my questions and your  
7 answers. So it's important that we try  
8 to avoid talking over one another.

9 A. Sure.

10 Q. The court reporter also  
11 can't take down gestures or nods of the  
12 head, so it's important for you to  
13 verbalize all of your answers.

14 If you want a break at any  
15 time, please just let us know. As long  
16 as a question isn't pending, you can go  
17 ahead and take a break.

18 Does that all sound fair and  
19 reasonable to you?

20 A. It does. Thank you so much.

21 MR. CARTER: I'd like to  
22 mark as the next exhibit the  
23 notice of deposition and show that  
24 to you.

1 Q. And who is that?

2 A. Angie, or Angela, is the  
3 head of our consulting practice.

4 Q. And do you know how she got  
5 involved?

6 A. I don't.

7 Q. And do you know who she  
8 spoke with before speaking to you?

9 A. I don't.

10 Q. Do you know whether anyone  
11 in your overseas offices was contacted  
12 about this matter before you first became  
13 involved?

14 A. I don't. I'm not aware of  
15 that, no.

16 Q. Does Baker Tilly maintain a  
17 presence in the Middle East?

18 A. They do.

19 Q. And does that include an  
20 office in the Kingdom of Saudi Arabia?

21 A. We have -- yes, we have  
22 Baker Tilly International in Saudi  
23 Arabia, I believe, yes.

24 Q. And do you know how many

1 out later and move on.

2 MR. GOETZ: We can. And if  
3 it turns out he's not bound by it,  
4 but I would rather err for the  
5 sake of the side of caution.

6 BY MR. CARTER:

7 Q. Mr. Marks, have you ever  
8 been involved as an expert in any  
9 litigation involving terrorism issues?

10 A. Not litigation, no.

11 Q. Have you ever been involved,  
12 in any professional capacity, in any  
13 terrorism-related matters?

14 A. Can you -- can you describe  
15 "terrorism" for me, please?

16 Not that I'm trying to --  
17 I'm not trying to be difficult, I just  
18 want to be specific. Are you talking  
19 about terrorism financing or are you  
20 talking about terrorism?

21 Q. Well, I'm using the term  
22 "terrorism" to encompass a broader  
23 portfolio of issues that would include  
24 terrorism financing.

1           A.     Well, if you're talking  
2     about terrorism financing, the answer to  
3     that would be yes.

4                     If you're talking about a  
5     terrorism expert, I'm not a terrorism  
6     expert.

7           Q.     And with regard to terrorism  
8     financing, what is your experience?

9           A.     My experience is through  
10    anti-money laundering-type fraud  
11    investigations of -- that were done on a  
12    global basis.

13          Q.     Did any of those involve  
14    investigations of possible involvement of  
15    a party in financing terrorism?

16          A.     That was one of the  
17    allegations, yes.

18          Q.     And who was the party  
19    accused of that conduct in that case?

20          A.     That's confidential.

21          Q.     Well, what was the nature of  
22    your work with regard to the terrorism  
23    financing issue that was raised in that  
24    matter?

1           A.     The nature of my work was to  
2     analyze financial information and other  
3     information, looking at various flows of  
4     funds and other communications to  
5     determine whether there was money  
6     laundering and if the money laundering  
7     led to some type of illegal acts, such as  
8     terrorist financing.

9           Q.     Was there a specific  
10    allegation that terrorist financing  
11    activities had occurred, or was it just  
12    within the broader set of potential  
13    illegal acts you were asked to vet?

14          A.     Broader set of potential  
15    illegal acts.

16          Q.     So the work that you're  
17    describing there involved a forensic  
18    investigation to determine if there had  
19    been money laundering for any potential  
20    crime, correct?

21          A.     That's right.

22          Q.     And it was not focused  
23    specifically on money laundering for  
24    purposes of delivering resources to a

1 terrorist organization; is that correct?

2 A. Repeat that one more time,  
3 please. I'm sorry.

4 Q. It was not focused  
5 specifically on money laundering for  
6 purposes of delivering resources to a  
7 terrorist organization?

8 A. We didn't know. There were  
9 allegations. So I don't -- I don't know  
10 that your question -- I can answer your  
11 question.

12 Q. Well, you keep saying that  
13 there are allegations.

14 Were there allegations that  
15 resources were delivered to a particular  
16 terrorist organization or party?

17 A. No.

18 Q. So there was no terrorist  
19 party identified as a potential recipient  
20 of funds or resources at any point in  
21 that investigation?

22 A. That's correct.

23 Q. And so there weren't  
24 actually allegations of terrorism



1     that nature.

2             A.     Yes.

3             Q.     And where have you done work  
4     that involved a conflict region?

5             A.     Israel and Palestine.

6             Q.     And what was the nature of  
7     the work you did in Israel and Palestine?

8             A.     That's confidential.

9             Q.     What about work in  
10    developing countries?

11            A.     I've done work in developing  
12    countries, yes.

13            Q.     And what kind of work did  
14    you do in developing countries?

15            A.     I've done bribery  
16    investigations.

17            Q.     Did those involve Foreign  
18    Corrupt Practices Act investigations?

19            A.     They did.

20            Q.     What countries were involved  
21    in those?

22            A.     Let's see.

23                    I'll name a few for you that  
24    I can remember.   India, Russia, China,

1 Brazil.

2 Q. Have you done any work on  
3 behalf of charitable organizations or  
4 NGOs?

5 A. Yes, sir.

6 Q. And what did your work on  
7 behalf of charities and NGOs involve?

8 A. I've done fraud  
9 investigations for charity organizations.  
10 I've been involved with charitable  
11 organizations on a finance and from a  
12 governance perspective.

13 I'm currently the chairman  
14 of the Campus Support Community of  
15 Greater Philadelphia, and also serve on  
16 the national board.

17 I would say I've done a lot  
18 of work for charitable organizations over  
19 my career.

20 Q. What about organizations  
21 involved in providing relief services in  
22 developing countries?

23 MR. GOETZ: Objection to  
24 form.

1 THE WITNESS: I've done a  
2 few of those, yes.

3 BY MR. CARTER:

4 Q. What did those involve?

5 A. The one that I mentioned to  
6 you before, but that's confidential.

7 Q. Well, what did your work  
8 involve, without telling me the names of  
9 the client?

10 A. It involved doing an  
11 investigation to see if the funds were  
12 spent for legitimate business purposes.

13 Q. And was it an investigation  
14 of a charity or NGO?

15 A. It was a charity, yes.

16 Q. And was the charity in  
17 question involved in providing relief  
18 services?

19 A. I don't recall. I -- I  
20 don't recall.

21 Q. And where was that charity  
22 operating?

23 A. In Saudi Arabia.

24 Q. What time period was that?

1           A.     I'm not certain as to the  
2     exact time period.

3           Q.     Did the charity itself  
4     retain you to do that investigation or  
5     did some other party?

6           A.     The organization retained  
7     us, yes.

8           Q.     And by "us," you're  
9     referring -- are you referring to Baker  
10    Tilly?

11          A.     That's correct.

12          Q.     So this would have been in  
13    the last three years?

14          A.     It was.

15                 And I -- just to correct it,  
16    it wasn't Saudi Arabia. It was in  
17    Palestine. And they did provide relief  
18    efforts.

19          Q.     And what was your role in  
20    that particular investigation?

21          A.     I was the partner overseeing  
22    the investigation.

23          Q.     And did that investigation  
24    result in a finding of misconduct?

1 A. It does.

2 Q. And were there other  
3 individuals at Baker Tilly involved in  
4 this project?

5 A. Yes.

6 Q. Do you recall approximately  
7 how many other people were involved in  
8 this project?

9 A. I believe there was about 12  
10 people on our team, yes.

11 MR. CARTER: And if we could  
12 mark collectively the invoices  
13 that were produced that are  
14 located at Tab 5 as the next  
15 exhibit.

16 - - -

17 (Whereupon, Exhibit  
18 Marks-962, No Bates, Baker Tilly  
19 Invoices, was marked for  
20 identification.)

21 - - -

22 BY MR. CARTER:

23 Q. And, Mr. Marks, if you can,  
24 can you just review those and let me know

1 if those are, in fact, invoices issued by  
2 Baker Tilly for your firm's work in this  
3 matter?

4 A. That's a Baker Tilly  
5 invoice, yes.

6 Q. Well, there's a bunch of  
7 them, if you can scroll through all of  
8 them.

9 MR. GOETZ: I would suggest  
10 that you download the exhibits on  
11 the share file.

12 THE WITNESS: I'm just  
13 having a problem getting through  
14 these, I apologize. They won't  
15 move.

16 Bear with me for one second.  
17 BY MR. CARTER:

18 Q. Sure.

19 A. Okay. I got it to work.  
20 Thank you. Thank you for your patience.  
21 I appreciate it.

22 Q. Sure.

23 A. And, Mr. Carter, you'd like  
24 me to review these?

1           Q.     Yes. I'd like you to just  
2 confirm that those are all invoices that  
3 Baker Tilly issued for its work on behalf  
4 of the WAMY defendants in this case.

5           A.     Bear with me while I look  
6 through them.

7                     Mr. Carter?

8           Q.     Yes.

9           A.     I've scanned through these,  
10 and I believe they are our invoices.  
11 They also seem to be account statements  
12 as well.

13          Q.     And I'll get into that in a  
14 second.

15                     But the invoices, as I see,  
16 are dated from February 19th, 2020, and  
17 the last one is September 24, 2020.

18                     Am I correct there would be  
19 some additional time for the work you  
20 recently did in preparation for the  
21 deposition that's not reflected in these?

22          A.     That is accurate, yes.

23          Q.     Do you have -- do you have  
24 any sense of what the additional charges,

1 beyond those reflected in these invoices,  
2 would add up to?

3 A. I believe our work in  
4 process is approximately \$80,000, yes.

5 Q. And during what time period  
6 did that \$80,000 accrue?

7 A. I don't have the specific  
8 date ranges, but it's probably over the  
9 last four months.

10 Q. So there are additional  
11 charges over the last four months that  
12 aren't encompassed by the invoices and  
13 supporting documents I have here?

14 A. That's correct.

15 Q. And were there bills sent  
16 out over the last four months --

17 A. No.

18 Q. -- for that work?

19 Did you say no?

20 A. That's correct.

21 Q. So none of that work has  
22 been invoiced as of this date?

23 A. It was just recently  
24 invoiced.



1 Q. When?

2 A. I believe -- I think it was  
3 last week or the week before.

4 MR. CARTER: Fred, I don't  
5 have our agreement in front of me,  
6 but I think it would have  
7 encompassed production of that  
8 invoice as well. So if you can  
9 get that to us.

10 MR. GOETZ: If we have it,  
11 we'll send it to you.

12 MR. CARTER: Thanks.

13 MR. GOETZ: We'll just  
14 check -- at the break, we'll check  
15 the office in New York and see if  
16 they have them. And if they do,  
17 we'll send them.

18 MR. MOHAMMEDI: We're still  
19 working with Baker Tilly on the  
20 invoice. When that is finalized,  
21 we'll send that.

22 MR. CARTER: I think we're  
23 going to adhere to the view that  
24 the invoice should be produced in

1           its current form so that we can  
2           have an opportunity to talk to Mr.  
3           Marks about it, if appropriate.

4                       So we would ask you to do  
5           that at a break.

6                       MR. MOHAMMEDI: We don't  
7           have a description, that's why.  
8           We need a description for Baker  
9           Tilly. You will not be able to  
10          know exactly what the invoice is  
11          for. That's the reason.

12                      MR. CARTER: Unfortunately,  
13          Omar, I can't understand you well  
14          enough to know what you said.  
15          There's a problem with your audio.

16                      MR. GOETZ: We'll look at  
17          it, what we have, and send it to  
18          you. You'll find, I think, that  
19          it's just a gross amount without  
20          any breakdown.

21                      But if we have an invoice,  
22          we'll provide it, consistent with  
23          our protocol, in terms of what we  
24          have.

1                   Now, whether or not we're  
2                   talking to Mr. Tilly about that is  
3                   another issue, but we'll send you  
4                   what we have.

5                   MR. CARTER: And just --  
6                   when we do take a break, if we can  
7                   try and somehow improve the audio  
8                   for you, Fred, and for Omar,  
9                   because I'm having terrible  
10                  difficulty understanding what  
11                  you're saying. So it's hard to  
12                  respond.

13                  MR. GOETZ: We'll work on  
14                  it.

15                  MR. CARTER: Thanks.

16 BY MR. CARTER:

17                  Q. Mr. Marks, just turning back  
18                  to this exhibit and using the invoice  
19                  that was sent out on February 19th, 2020,  
20                  as an example, is it fair to say that the  
21                  sort of invoicing convention here is that  
22                  the Page 1, which is on the right, right  
23                  now, not the one that's on the screen,  
24                  provides a sort of total statement of the

1 charges, correct?

2 A. Yes.

3 Q. And then the second page  
4 behind that includes an overview of the  
5 individuals who billed time during the  
6 relevant period and the total number of  
7 hours and rate charged?

8 A. Correct.

9 Q. And then behind that there  
10 are details regarding the daily time  
11 descriptions relating to the work  
12 performed by those individuals?

13 A. That's correct.

14 Q. And that's true for all of  
15 the invoices we have in this collection,  
16 correct?

17 A. I believe so, yes. Based on  
18 my review, yes.

19 Q. Based on our review of these  
20 invoices, we understand that through the  
21 date covered by these invoices, Baker  
22 Tilly billed WAMY a total of \$379,907.93,  
23 and that was after an approximately  
24 \$36,000 discount.

1 Does that sound right?

2 A. I did not add it up, sir.

3 But I believe it sounds close, yes.

4 Q. And with the additional  
5 approximately \$80,000 that you referenced  
6 related to more recent work, the total  
7 billings would be in the range of  
8 \$480,000?

9 A. That's correct.

10 Q. And I believe you said  
11 earlier there were approximately 12  
12 individual timekeepers who billed time  
13 for work on this project; is that  
14 correct?

15 A. I believe that's what I  
16 said, yes.

17 Q. And based on my review, it  
18 appears that the total hours you billed  
19 during the period covered by these  
20 invoices that we've marked as an exhibit  
21 was 91.75 hours.

22 Does that sound right?

23 A. That's what's recorded on  
24 the time sheets, yes.

1 Q. And just turning to the time  
2 sheets specifically, the first invoice,  
3 dated February 19th, 2020, includes a  
4 total of two hours for you?

5 A. Yes.

6 Q. And those two hours all  
7 pertain to a meeting you had with Mr.  
8 Mohammedi, correct?

9 A. I believe so, yes.

10 Q. And the next invoice, dated  
11 March 5, 2020, records two and-a-half  
12 hours of total time for you, correct?

13 A. Yes.

14 Q. And you describe that as  
15 related to coordinating access and review  
16 of preliminary information, communication  
17 with staff, correct?

18 A. I can't see the description.  
19 I apologize.

20 Q. Sorry. It's on Page 3 of  
21 this particular invoice.

22 MR. GOETZ: Mr. Marks, you  
23 can download the document if  
24 that's better for you to see.

1 THE WITNESS: Yes. That's  
2 what it says.

3 BY MR. CARTER:

4 Q. And just as a -- as a  
5 baseline proposition, as a large  
6 accounting firm, am I correct that Baker  
7 Tilly requires its personnel to record  
8 their time accurately?

9 A. We try our best, yes.

10 Q. And does it require  
11 employees to include accurate  
12 descriptions of the work that they  
13 performed?

14 A. It requires them to provide  
15 some general semblance of what tasks they  
16 provided, yes.

17 Q. And that semblance should be  
18 accurate, correct?

19 A. I would hope it would be,  
20 yes.

21 Q. And you personally adhere to  
22 those requirements, correct?

23 A. Again, I try my best, yes.

24 Q. Turning to the invoice --

1 the next invoice which is dated March  
2 27th, 2020, and going to the summary of  
3 the involved timekeepers, which is Page  
4 2.

5 MR. CARTER: The prior page,  
6 I'm sorry.

7 BY MR. CARTER:

8 Q. There was no time reflected  
9 on this invoice for you, correct?

10 A. That's correct.

11 Q. And turning next to the  
12 April 2, 2020, invoice, there are --  
13 again, there was no time recorded for any  
14 work by you on the project during the  
15 period covered by that invoice, correct?

16 A. That's correct.

17 And you're going to probably  
18 see no time recorded for me in the  
19 following month as well, probably.

20 Q. Well, let's do it one by  
21 one.

22 The invoice dated May 11,  
23 2020, does not reflect any work performed  
24 by you during the month covered by that



1 invoice, correct?

2 A. It does not.

3 Q. And the invoice dated June  
4 11, 2020, likewise, does not indicate any  
5 work by you during the period covered by  
6 that invoice, correct?

7 A. Correct.

8 Q. And then turning to the July  
9 22, 2020, invoice, you're -- there's an  
10 indication that you spent 35  
11 and-a-quarter hours working on the  
12 project during that month, correct?

13 A. That's what it says, yes.

14 Q. And then there are details  
15 on Page 4 describing the nature of the  
16 work that you performed.

17 Do you see the entries  
18 associated with your name?

19 A. I do.

20 Q. And as I read those entries,  
21 they all pertain to the drafting of the  
22 report and discussions; is that correct?

23 A. That's what it says, yes.

24 Q. And there are entries here

1 and elsewhere for other individuals at  
2 Baker Tilly relating to the drafting and  
3 revision of the report, correct?

4 A. I don't know what you're  
5 referring to. Other -- I don't know -- I  
6 can only see what's on the screen.

7 Q. Well, if you look, there's  
8 an entry, the third name down, there's an  
9 entry for P. Zikmund, and it's described  
10 as, Report preparation.

11 Do you see that?

12 A. I do.

13 Q. And then there's another for  
14 him to update the report.

15 Do you see that?

16 A. Yes.

17 Q. And a third for him, update  
18 the report, and then a fourth and a  
19 fifth.

20 So there are entries for --  
21 several entries for other people, in this  
22 case, Mr. Zikmund, related to the report,  
23 correct?

24 A. Correct.

1 Q. And the report referenced  
2 there, is that your rebuttal report in  
3 this matter?

4 A. It is.

5 Q. And turning to the invoice  
6 from September 24, 2020, the second page  
7 indicates that you spent a total of 52  
8 hours working on the project during the  
9 two months covered by that invoice; is  
10 that correct?

11 A. That's what it says, yes.

12 Q. And then looking at the  
13 individualized time description entries,  
14 there's a number, as you'll see on Page 4  
15 of 7 of this invoice, associated with  
16 you, referring to rebuttal report prep,  
17 draft, draft, rebuttal report prep,  
18 rebuttal report prep.

19 Do you see those?

20 A. I do.

21 Q. And there are entries for a  
22 number of other people that reference the  
23 report as well.

24 Do you see that?

1                   Three entries, for instance,  
2   for Mr. Goldberg right at the top of the  
3   report.

4           A.     Yes.

5           Q.     And a number of entries for  
6   Mr. Zikmund again, with report; is that  
7   correct?

8           A.     Yes, sir.

9           Q.     And entries -- an entry for  
10   Mr. Scaccia for report revisions, and  
11   several for Mr. Goldberg, correct?

12          A.     Yes, sir.

13          Q.     And one for Dardani?

14          A.     That's correct.

15          Q.     And then turning to the next  
16   page of this particular invoice, there  
17   are entries associated with your name,  
18   and a few of them reference, Review  
19   documents. There is an entry for 1.25  
20   hours associated with your name,  
21   several -- a few entries for 4.25 hours  
22   that include, among other work,  
23   references to your involvement in  
24   reviewing documents.

1 Do you see those?

2 A. Yes.

3 Q. By my calculation, this  
4 invoice indicates only 14 hours were  
5 spent on any work that you describe as  
6 involving review of documents.

7 Does that sound correct?

8 A. That's what the time sheet  
9 says, yes.

10 Q. And reviewing all of the  
11 other invoices, I have not seen any other  
12 time entries on your behalf that  
13 reference any involvement by you in  
14 reviewing documents.

15 Does that sound correct?

16 MR. GOETZ: Objection.

17 Form.

18 THE WITNESS: There's  
19 nothing on those invoices, no.  
20 That's correct.

21 BY MR. CARTER:

22 Q. And when was your report  
23 issued?

24 A. August 7th, 2020.

1                   And there are a lot of  
2 people that reviewed a lot of different  
3 documents. And the way the process  
4 works, under my direct supervision, is,  
5 you know, I lay out the methodology and,  
6 you know, as we go through and -- as we  
7 go through the matter, I'm involved in --  
8 every step of the way. And my team  
9 reviews information and then brings it to  
10 me, you know, I ask questions and they go  
11 back and bring me more information.

12                   But that's generally the way  
13 it works. So we work as a team.

14                   Q.     So this is a list of  
15 documents reviewed by your team, not by  
16 you personally?

17                   A.     I reviewed -- yes, that's  
18 correct.

19                   Q.     And so you relied on other  
20 members of your team to review and  
21 analyze the documents on this list,  
22 correct?

23                   A.     Yes.

24                   Q.     And the total time reflected

1 in the invoices for you reviewing  
2 documents was 14 hours, correct?

3 MR. GOETZ: Objection.  
4 Form.

5 THE WITNESS: We went  
6 through this. Yes, that's what it  
7 says on the time sheets. Yes.

8 BY MR. CARTER:

9 Q. Do you know how many  
10 documents you personally actually  
11 reviewed --

12 A. I don't.

13 Q. -- prior to the issuance of  
14 your report?

15 A. I don't.

16 Q. Well, did you review tens of  
17 thousands of documents or fewer?

18 A. We reviewed -- we reviewed a  
19 lot of documents. I don't know the exact  
20 amount.

21 Q. I'm not asking whether we,  
22 "we" meaning Baker Tilly, reviewed.

23 I'm asking whether you  
24 reviewed tens of thousands of documents?

1           A.     I wouldn't say I reviewed  
2     tens of thousands of documents, no. Like  
3     I said, that's not the process that we  
4     went through -- go ahead.

5           Q.     So you review -- you relied  
6     on other people to review documents and  
7     they provided their analysis to you; is  
8     that correct?

9           A.     Yes.

10          Q.     And how did they provide  
11     that analysis to you?

12          A.     We would have regular and  
13     ongoing discussions.

14          Q.     And did they provide any  
15     summaries to you relating to their  
16     review, analysis or findings?

17          A.     I'm sure they summarized it  
18     to me, otherwise -- yes. Absolutely,  
19     yes. They summarized information for me.

20          Q.     And so you relied on those  
21     summaries for purposes of developing your  
22     opinions and writing your report,  
23     correct?

24          A.     I relied on those summaries



1 to evaluate whether I believed that those  
2 were complete and accurate. And if I  
3 thought that we needed more information,  
4 I would -- I asked my staff to go back  
5 and get me more details.

6 So placing reliance on them,  
7 it all depended on many different  
8 factors.

9 Q. Well, you considered them in  
10 the context of developing your opinions  
11 and report in the case, correct?

12 A. Yes.

13 Q. And do you list any of those  
14 summaries or any analyses provided by  
15 your staff in the documents considered  
16 section of your report?

17 MR. GOETZ: Objection.

18 Form.

19 THE WITNESS: I don't have  
20 any written summaries. So the  
21 answer to that is no.

22 BY MR. CARTER:

23 Q. Well, they didn't provide  
24 you any information in writing relating

1 to their review of the documents?

2 A. No. It was all done through  
3 meetings and discussions.

4 Q. And you were able to assess  
5 the competence and quality of the review,  
6 by a dozen employees, of tens of  
7 thousands of documents based on verbal  
8 communications at meetings?

9 A. Yes.

10 Q. And you didn't feel the need  
11 to have anyone put any of their analysis  
12 down in writing so you could study it and  
13 make sure you thought it was accurate?

14 A. I'm just telling you how it  
15 worked. We had conversations about the  
16 documents. If I thought that they  
17 were -- if I thought -- if I understood  
18 what it was that they were trying to say,  
19 that was fine.

20 If not, if I needed more  
21 information or required more information,  
22 or there was something that I wanted to  
23 be looked into further, then that's what  
24 we did.

1 Q. Well, I mean, this is a  
2 litigation engagement, it's not an audit  
3 or forensic accounting engagement.

4 And so I'm trying to  
5 understand exactly who was responsible  
6 for the review and drafting of your  
7 report within Baker Tilly.

8 A. I think I answered that.

9 MR. GOETZ: Objection.

10 Form.

11 THE WITNESS: I believe I  
12 answered that question. I told  
13 you I was.

14 BY MR. CARTER:

15 Q. So if we can just turn back  
16 to the September 24 invoice as an  
17 example, and go to Page 4.

18 A. Is that Exhibit-962? I just  
19 want to pull it up on my screen.

20 MR. GOETZ: It is 962, Page  
21 34 of the PDF.

22 THE WITNESS: Give me a  
23 moment to get there.

24 BY MR. CARTER:

1 others under your supervision.

2 Do you see that?

3 A. I do.

4 Q. And those two statements  
5 together, do they describe your  
6 methodology for developing your opinions  
7 and preparing your report in this matter?

8 A. I don't think they describe  
9 my methodology. I think they outline my  
10 qualifications and the documents that I  
11 considered, not the complete methodology  
12 for formulating my opinions and  
13 conclusions.

14 Q. So your report does not  
15 describe in full your methodology for  
16 developing your opinions and conclusions?

17 A. There's not a methodology  
18 section in here, no. That's correct.

19 Q. Just turning to the content  
20 of your report and some general issues.

21 Do you agree that auditors  
22 and forensic accountants should use terms  
23 of art carefully and only where  
24 appropriate?

1                   If you have a specific  
2                   example, I can certainly comment  
3                   on that.

4   BY MR. CARTER:

5                   Q.     Well, I think you said  
6                   earlier that auditors should stick to the  
7                   facts.

8                   You agree with that?

9                   A.     Absolutely.

10                  Q.     And do you agree that  
11                  auditors shouldn't offer broad  
12                  conclusions based solely on anecdotal  
13                  information?

14                  MR. GOETZ:  Objection.

15                  Form.

16                  Go ahead and answer the  
17                  question if you can.

18                  THE WITNESS:  Sure.

19                  Again, I would need to be --  
20                  I would need to understand the  
21                  situation.

22   BY MR. CARTER:

23                  Q.     You're not in a position to  
24                  say whether it's appropriate for an

1 BY MR. CARTER:

2 Q. Yes.

3 Were you asked to perform a  
4 comprehensive review to identify any and  
5 all red flags relating to WAMY and its  
6 branch offices during the period in  
7 question?

8 A. We were asked to perform a  
9 review.

10 Q. And as part of that review,  
11 were you asked to identify any things  
12 that you saw as potential red flags?

13 A. We were.

14 Q. And did you develop a  
15 comprehensive list of things that you saw  
16 as red flags?

17 A. That list would be small.

18 Q. Okay. But did you develop  
19 one?

20 A. Not a formal list, no.

21 Q. On that same page of your  
22 report, you say that the opposing experts  
23 are not auditors, accountants, financial  
24 experts, certified fraud examiners or

1 U.S. financial and accounting system  
2 requirements?

3 A. Can we break this question  
4 down?

5 Q. Sure. You can answer how  
6 you see fit.

7 A. Okay. So considering the  
8 challenges faced by a not-for-profit  
9 organization, so challenges faced by a  
10 not-for-profit organization, based on my  
11 experience, are, you know, many of them  
12 are volunteers, their skill sets are not  
13 what they should be in comparison with  
14 for-profit organizations.

15 The fact that they're in  
16 developing countries makes it a little  
17 bit more challenging to get specific  
18 resources.

19 And the financial  
20 regulations with regard to what is  
21 happening or where -- the financial  
22 regulations in the Middle East are not as  
23 sophisticated as those are in the U.S.  
24 financial and accounting system. The

1 oversight?

2 A. I think there's always an  
3 opportunity to improve the control  
4 environment.

5 Q. And WAMY recognized that  
6 need in 1997, in your opinion, correct?

7 A. I believe they recognized  
8 the need to maintain a control  
9 consciousness and to implement adequate  
10 internal controls from the beginning.

11 Q. But in 1997 they recognized  
12 a need for improvement; that's what you  
13 say in your report, correct?

14 A. Right.

15 Q. And in support of that and  
16 your opinion that WAMY took action at  
17 that time, you cite a document that was  
18 produced at WAMY -- by WAMY at Bates  
19 82520.

20 MR. CARTER: Which, if we  
21 can pull it out, it's at Tab 25.  
22 Let's mark this as the next  
23 exhibit.

24 - - -



1 Q. Do you see any of those  
2 people referenced or copied on this  
3 document?

4 A. I don't.

5 Q. Does this document say  
6 anything about auditing or financial  
7 controls at all?

8 A. Well, the mere fact that  
9 they're putting in a computer system is a  
10 control. They're enhancing their  
11 computer system.

12 Q. Okay. So the establishment  
13 of a computer system, you believe,  
14 reflected an effort on the part of WAMY  
15 to implement more robust auditing and  
16 financial controls?

17 A. I do.

18 Q. Does the document say  
19 anything about using that computer system  
20 for purposes of centralizing financial  
21 reporting or auditing?

22 A. I think it's inherent in  
23 what they're trying to achieve. They  
24 link together. To better -- it's

This transcript contains confidential material

1 capturing more information, allowing them  
2 to understand and monitor that  
3 information, the control. And it's  
4 enhancing their overall control  
5 environment, yes.

6 Q. But you agree with me that  
7 it doesn't refer to financial records or  
8 auditing records at all?

9 A. No. And oftentimes, in my  
10 experience, when you're designing a  
11 computer system to capture data, it  
12 wouldn't refer to auditing records or  
13 financial records.

14 Q. Well, do you know if this IT  
15 system was actually implemented for  
16 purposes of housing financial and  
17 auditing records?

18 A. I think it was for housing  
19 records. I believe that's what it says.

20 Q. And, in fact, when it talks  
21 about the records that could potentially  
22 be included in this new system, it talks  
23 about a media archive, an archive for the  
24 international organizations, associations

1 BY MR. CARTER:

2 Q. Aside from that reference in  
3 Paragraph 6 to using e-mails for  
4 correspondence, either inside the Kingdom  
5 or abroad, is there any reference in this  
6 document to the offices abroad?

7 A. There isn't.

8 Q. Overall, would it be correct  
9 to say that this document addresses a  
10 potential IT initiative?

11 MR. GOETZ: Objection.

12 Form.

13 THE WITNESS: I think it  
14 addresses the control  
15 consciousness of WAMY in  
16 continuously improving their  
17 overall controls.

18 BY MR. CARTER:

19 Q. Well, couldn't you more  
20 easily read it as a proposal for WAMY to  
21 begin using computers more as the  
22 availability of computer systems became  
23 available?

24 MR. GOETZ: Objection.

1 Form.

2 THE WITNESS: I don't know  
3 that -- I don't know that to be  
4 true or not.

5 BY MR. CARTER:

6 Q. Well, you described this as  
7 an initiative to implement more robust  
8 controls.

9 Do you know whether this  
10 actually happened?

11 A. I don't know specifically  
12 whether it happened or not.

13 Q. Okay. Well, do you agree  
14 that if this never happened, this memo  
15 wouldn't really provide a firm basis for  
16 you to opine that WAMY began implementing  
17 more rigorous controls in 1997?

18 A. That would be true. But I  
19 haven't seen any evidence to the  
20 contrary.

21 Q. And in terms of what this  
22 document is and what it isn't, is this a  
23 directive or is this an outline of a  
24 proposal?

1 THE WITNESS: I don't know.

2 I wasn't there.

3 BY MR. CARTER:

4 Q. Between the date of this  
5 document in 1997 and January of 2000, are  
6 you aware, based on your review, of any  
7 other documents reflecting implementation  
8 of new financial or fraud controls?

9 A. Am I aware of any other  
10 documents?

11 Q. Yes.

12 Did you find any other  
13 documents, between the date of this  
14 document in 1997 and a document you later  
15 referred to on January 1st of 2000, in  
16 all of the materials WAMY provided, that  
17 reflected implementation of any new  
18 financial or auditing controls during  
19 that three-year period?

20 A. I don't think new controls  
21 need to repose in a document, sir.

22 Q. Well, did you see any  
23 evidence of new controls being  
24 implemented as part of what you describe

This transcript contains confidential material

1 in your report as a process initiated in  
2 1997?

3 A. I see evidence of controls.  
4 I see evidence of continued controls. I  
5 see evidence of transparency. I see  
6 evidence of project-based financing,  
7 which is a control. I see evidence of  
8 actions taken against individuals for bad  
9 or poor acts.

10 I see a lot of controls.  
11 Not all --

12 Q. I --

13 A. Can I please finish? I  
14 apologize.

15 Q. Sure.

16 A. Not every company documents  
17 every control enhancement that they have.  
18 That's just not the way this works.

19 Q. Well, but what I'm asking  
20 you is, what's the basis for your opinion  
21 in this matter that WAMY recognized --  
22 that WAMY recognized the need for greater  
23 controls in 1997 and began a process at  
24 that time that continued, aside from this

1 implementing greater control systems,  
2 correct?

3 MR. GOETZ: Objection.

4 Form.

5 THE WITNESS: Can I answer?

6 MR. GOETZ: Go ahead, you  
7 can answer if you can.

8 THE WITNESS: I think the  
9 fact that they talk about  
10 continuously enhancing their  
11 overall control environment is a  
12 control all in itself.

13 Having a control  
14 consciousness and a proper tone  
15 from the top, whereby you have an  
16 organization that is constantly  
17 looking to maintain control, I  
18 think that is very important.

19 BY MR. CARTER:

20 Q. Okay. But what you cite in  
21 support of that is a single document  
22 referring to a possible IT initiative  
23 from 1997.

24 A. Well, it's more than a

1 MR. GOETZ: Objection.

2 Form.

3 THE WITNESS: Like I said,  
4 I'm going to have to go back and  
5 re-review this. I'm not 100  
6 percent sure.

7 BY MR. CARTER:

8 Q. But you would agree with me  
9 that it's important to present the  
10 opposing experts' opinions you're  
11 purporting to rebut accurately, isn't it?

12 A. Absolutely. And if I made a  
13 mistake, I'm the first one to admit it.  
14 And I'll make sure it's corrected.

15 Q. On Page 10 -- I'm sorry,  
16 before I get to that.

17 On Page 9, there is a  
18 reference in the next sentence, after the  
19 one that we were discussing, that states,  
20 As we have found in our review, WAMY  
21 performed numerous audits in Saudi Arabia  
22 across its international offices.

23 Do you see that?

24 A. Yes.



1 cite, did you review documents that  
2 established that the verification process  
3 contemplated by the contract was actually  
4 followed?

5 A. I'm sorry, repeat that  
6 question.

7 Q. Did you review documents  
8 with regard to the Georgia refugee  
9 project confirming that the verification  
10 process contemplated by the contract was  
11 actually followed?

12 A. I don't know whether the  
13 contract was actually followed, but we  
14 did review the project reports.

15 Q. As an auditor, do you agree  
16 that you can't opine as to an  
17 organization's protocols and compliance  
18 with them for a period encompassing ten  
19 years and dozens of offices on the basis  
20 of a single contract?

21 A. I don't understand the  
22 question.

23 Q. Well, the fact that there is  
24 a contract including these requirements

1 in the case of the Georgia program in  
2 2000 doesn't establish that it was a  
3 uniform procedure applied throughout the  
4 entire time period and by all of WAMY's  
5 offices, does it?

6 A. No. But you can't look at  
7 this -- there are other -- there were  
8 other areas that we looked at to indicate  
9 that there were controls around this.

10 Q. Well, you don't cite here  
11 any protocol issued by the headquarters  
12 requiring the existence of a contract and  
13 that kind of verification process,  
14 correct?

15 A. Well, they didn't say that.  
16 But, you know, from an overall project --  
17 you know, the project financing controls  
18 that they had in place, that was the  
19 control.

20 Q. Well, so you reviewed  
21 certain projects and saw evidence of this  
22 kind of procedure being implemented,  
23 correct?

24 A. That's right.

1 Q. But you didn't review all of  
2 the projects that WAMY conducted during  
3 the time period, correct?

4 A. Correct. Which you wouldn't  
5 do in an audit, anyway.

6 Q. Okay. That's fine.

7 But do you know what  
8 percentage of the refugee projects you  
9 reviewed?

10 A. No.

11 Q. Well, what percentage would  
12 be satisfactory for you to establish an  
13 opinion as to the overall controls for  
14 WAMY as an organization?

15 A. It really wouldn't be by  
16 percentage.

17 Q. Well, isn't it fair to say  
18 that all you've offered in your report is  
19 a few anecdotal examples of this having  
20 been done?

21 MR. GOETZ: Objection.

22 Form.

23 THE WITNESS: No. I think  
24 what I offered in my report is the

1 fact that I've laid out evidence  
2 that showed -- or I laid out -- I  
3 laid out my opinions that show I  
4 reviewed hard evidence and that  
5 that evidence is supportive of a  
6 control environment, and a control  
7 environment that has certain  
8 processes and procedures in place  
9 in order to make sure that  
10 funding, when it was actually  
11 issued, was spent for those  
12 particular projects. That's the  
13 project-based financing. That is  
14 an absolute control.

15 And so when it comes to  
16 doing an audit, an audit would  
17 definitely consider that, but it  
18 doesn't consider everything.

19 BY MR. CARTER:

20 Q. Well, you agree that for  
21 purposes of the control that you cite  
22 here, all you've offered in the report is  
23 a citation to the single contract for  
24 Georgia?

1 Q. Further down on Page 10,  
2 there's another statement referring to  
3 the 1997 issue that reads, By beginning  
4 to institute more strict and centralized  
5 controls in 1997, WAMY became a more  
6 transparent and better recordkeeping  
7 organization that is not in line with  
8 organizations that supported al-Qaeda.

9 Do you see that?

10 A. I do.

11 Q. What organizations that  
12 supported al-Qaeda have you studied that  
13 provide the basis for that comparative  
14 assessment?

15 A. It's my general overall  
16 understanding that organizations that do  
17 not have controls and are not  
18 transparent, those were the general  
19 attributes and characteristics of the --  
20 of their mode to fund terrorist  
21 organizations in general, not  
22 specifically al-Qaeda, but in general.

23 Q. Well, what organizations can  
24 you name that the United States

1 government has identified as having  
2 supported al-Qaeda?

3 MR. GOETZ: Objection.  
4 Scope.

5 THE WITNESS: Repeat the  
6 question one more time.

7 BY MR. CARTER:

8 Q. What organizations can you  
9 name that the United States government  
10 has identified as having supported  
11 al-Qaeda?

12 A. Not WAMY.

13 Q. Okay. Well, can you name  
14 any?

15 A. I don't know of any other  
16 specific organizations by name.

17 Q. And, again, here you  
18 indicate that the initiative referenced  
19 in the 1997 memo would not be in line  
20 with organizations that supported  
21 al-Qaeda.

22 And we agree that the 1997  
23 document relates to IT processes and  
24 greater uses of computers?

1 demanded that its local offices report  
2 and be held accountable for spending,  
3 which is not typical for an organization  
4 hiding something.

5 Do you see that?

6 A. I do.

7 Q. And, again, aside from the  
8 1997 IT memo, are there any other  
9 documents that you recall seeing between  
10 1997 and 2000 that reflected  
11 implementation of new financial controls?

12 A. Yes. There's project-based  
13 financing. There was a lot of different  
14 things that we saw.

15 Q. Well, again, Mr. Marks, I'm  
16 trying to meet the language of your  
17 report directly here.

18 And you're describing a  
19 process that occurred within WAMY. And  
20 what I'm trying to understand is, did you  
21 see documentation between 1997 and 2000  
22 through which WAMY's senior management  
23 implemented new financial controls across  
24 the entire organization?

1 MR. GOETZ: Objection.

2 Form.

3 THE WITNESS: Should I  
4 answer?

5 I saw a pattern of evidence,  
6 I saw evidence, we reviewed  
7 evidence, report through various  
8 things, that are indicative of an  
9 organization that strives to have  
10 controls.

11 The structure and behavior  
12 that WAMY put in place are  
13 indicative of a control-based  
14 group and not a group that ran  
15 without control over its local  
16 branches.

17 So, you know, it's not one  
18 particular thing, Mr. Carter.  
19 It's a variety of different things  
20 that basically make up control.

21 BY MR. CARTER:

22 Q. Okay. But you say, WAMY  
23 strived to achieve for best practices  
24 when it demanded that its local offices



1 report and be accountable for spending,  
2 in the sentence immediately after the  
3 more strict and centralized controls in  
4 1997.

5 What documents did you  
6 review between 1997 and 2000 through  
7 which WAMY issued directives to its  
8 offices demanding that they report and be  
9 held accountable for spending?

10 MR. GOETZ: Objection.

11 Form. Repetitive.

12 THE WITNESS: I don't think  
13 there's a -- one document. But  
14 the actions of the overall  
15 organization, with regards to  
16 their reporting in to WAMY Saudi  
17 Arabia, are indicative of control,  
18 are indicative of the fact that  
19 that was something that was  
20 demanded.

21 The actions that WAMY took  
22 when that didn't happen were  
23 severe. If you did not provide  
24 project-based -- if you did not

1           provide support for monies that  
2           you needed in order to promote the  
3           mission of WAMY, you did not get  
4           funding. Full period, the end.

5       BY MR. CARTER:

6           Q.       Mr. Marks, we're discussing  
7           two different things. And we'll get to  
8           it later.

9                       But I'm asking you  
10          specifically about what steps were  
11          undertaken between 1997 and 2000 by  
12          WAMY's management to implement new  
13          financial controls across the  
14          organization?

15                     I'm not asking you about  
16          what you divined from the controls that  
17          were in place. I'm just asking you what  
18          documents you saw that referred to the  
19          implementation of new controls, if any?

20                     MR. GOETZ: Objection.

21                     Form. Repetitive.

22                     THE WITNESS: There's not  
23          one document that I saw that  
24          clearly lays this out.

1                   Like I said to you before,  
2                   in my -- in my experience, there  
3                   doesn't need to be a document that  
4                   exists to actually outline  
5                   controls to be in place. It's the  
6                   actions of the organization.

7 BY MR. CARTER:

8                   Q.       On Page 11 of your report,  
9                   there's a sentence discussing Dr.  
10                  Noorwali's declarations.

11                  And you say that, We have  
12                  found these declarations from Noorwali to  
13                  be consistent with supporting primary  
14                  documents reviewed, and the project  
15                  reports contained sufficient evidence for  
16                  these processes as we discussed in  
17                  Section C of our analysis.

18                  And Section C of the  
19                  analysis, at least as I see it, begins on  
20                  Page 20 and concerns the Canada Review  
21                  Agency.

22                  A.       Canada Revenue Agency.

23                  Q.       Yes. Sorry.

24                  A.       That's okay.

1           A.     I don't have a file, but I  
2     know that they're in Exhibit B.

3           Q.     So I think we'd just ask  
4     that -- that you provide some  
5     identification of the -- as we understand  
6     it now, 54 audit reports that are being  
7     referenced on Page 7 of the report.

8           MR. GOETZ:   And, again,  
9           Sean, my continuing objection to  
10     the form.  There's audit reports  
11     and then financial statements,  
12     that's how it was reported.

13          MR. CARTER:   Okay.  If you  
14     could just identify those when we  
15     take a break.

16   BY MR. CARTER:

17          Q.     I'm going to get into some  
18     specifics with regard to those documents  
19     in a second, but I would first like to  
20     discuss just some general considerations.

21                 For purposes of undertaking  
22     a review of the financial and accounting  
23     controls of the organization as a whole,  
24     is it customary to try to first get an

1 understanding of the organization, its  
2 operations and footprint?

3 MR. GOETZ: Objection.

4 Form.

5 THE WITNESS: That's part of  
6 it, yes.

7 BY MR. CARTER:

8 Q. For purposes of offering  
9 your opinions in this case, did you  
10 determine how many physical offices WAMY  
11 had, both in the Kingdom and abroad,  
12 during the period from 1992 to 2002?

13 A. No.

14 Q. Sitting here today, do you  
15 know how many offices WAMY was operating  
16 during that time?

17 A. The exact number, no.

18 Q. Can you provide an  
19 approximation?

20 A. Between 30 and 40.

21 Q. Did you or your team  
22 undertake any effort to catalogue the  
23 offices in years for which you did  
24 receive audits or audited financial

1                   So the fact that an auditor  
2                   signed off on these as with  
3                   regards to, you know, the  
4                   financial -- it says it right  
5                   here, In our opinion, the  
6                   financial statements present  
7                   fairly, in all material respects,  
8                   the fund accountability.

9                   If they didn't have good  
10                  controls in place, you wouldn't be  
11                  able to crank out a financial  
12                  statement like this.

13                 You know, I've been involved  
14                 in other charitable organizations  
15                 that don't have controls, where  
16                 generating financial statements is  
17                 like, literally, trying to get  
18                 from here to Jupiter.

19 BY MR. CARTER:

20                 Q.       Do you know the firm Kantor  
21                 Akuntan Publik?

22                 A.       We looked them up. I don't  
23                 know them personally, but we looked them  
24                 up.

1 Q. Doesn't -- do you think  
2 those figures accurately reflect the cost  
3 of those items?

4 A. I don't know whether they  
5 reflect the cost of the items.

6 But this is my point.  
7 There's complete and total transparency  
8 here. They are accounting for  
9 everything. Everything is being  
10 accounted for.

11 So when we went back and we  
12 did our review and we looked at all of  
13 the evidence, the grave level of detail  
14 for a charitable organization like this,  
15 based on where they are located and based  
16 on the situation and the timeframe that  
17 we're dealing with, is actually quite  
18 remarkable.

19 The fact that they had any  
20 documentation whatsoever to me was  
21 remarkable. So, you know, I don't know  
22 what your point is here, but these small  
23 amounts, to me, are -- are them being  
24 transparent.

1                   Whether it's \$20 for a broom  
2   or \$20 for detergent, it doesn't matter.  
3   They are accounting for things, which is  
4   an indication of control, good controls,  
5   solid controls, which is what we were  
6   looking for.

7                   Q.     Doesn't it perhaps indicate  
8   that they were reconstructing their  
9   financial activities after the fact and  
10   assigning general values to things?

11                  A.     Okay.  So --

12                  MR. GOETZ:  Objection.  
13                  Object to the form.

14                  THE WITNESS:  So then you're  
15                  calling the auditors who signed  
16                  off on these liars.

17   BY MR. CARTER:

18                  Q.     Well, the auditors that  
19   signed off on them may have taken in good  
20   faith representations that those were the  
21   approximate amounts?

22                  A.     No, you're --

23                  MR. GOETZ:  Objection to  
24                  form.



1 Do you see that?

2 A. I do.

3 Q. And so it wasn't in the form  
4 of a directive, was it?

5 MR. GOETZ: Objection.  
6 Form.

7 THE WITNESS: Well, my  
8 understanding is, with regards to  
9 this particular document, when a  
10 directive is issued like this,  
11 when it comes to internal control,  
12 there's always an opportunity to  
13 reply back.

14 BY MR. CARTER:

15 Q. Mr. Marks, the sentence I  
16 just read you of your report, Over the  
17 course of centralizing recordkeeping,  
18 WAMY gradually became aware of issues in  
19 their internal controls and made a  
20 conscientious effort to improve any  
21 control issues, do you see that?

22 A. I do.

23 Q. There is no citation for  
24 that statement.

1                   What is the basis for that  
2     statement?

3                   A.     My basis for that statement  
4     was reviewing the audit reports and audit  
5     opinions and looking at those -- and the  
6     financial information and other  
7     information that highlighted certain  
8     areas. And we -- it looked like they  
9     took corrective action.

10                   So in my opinion, over the  
11    course of this -- you know, over the  
12    period, WAMY -- you know, WAMY, with  
13    project-based accounting, issuing  
14    policies and procedures, you know,  
15    guidelines for recognizing revenue and  
16    the like, that's an awareness. That's  
17    very common.

18                   Q.     You say that this occurred  
19    over the course of centralizing  
20    recordkeeping.

21                   A.     Okay.

22                   Q.     What is the basis for  
23    attributing this realization to the  
24    centralization of recordkeeping?

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1 Q. Further down you say, A new  
2 accounting and financial policy was  
3 introduced and implemented with immediate  
4 effect on January 1st, 2000.

5 Do you see that?

6 A. I do. Footnote 46, yes.

7 Q. And then you describe the  
8 principal points of the new policy,  
9 correct?

10 A. I do.

11 Q. And am I correct that you  
12 are of the opinion that the introduction  
13 of that new policy was prompted by WAMY's  
14 own internal recognition of control  
15 issues from 1997 forward?

16 A. I -- no. I take exception  
17 to that. I think it's the overall  
18 control consciousness of WAMY. I --

19 Q. When you say --

20 A. -- think they always wanted  
21 to -- any organization out there always  
22 wants to improve their internal controls.

23 I don't -- you know, one  
24 precipitating event, yes, might tip the

1 while they get recommendations for  
2 improvement, a lot of them just  
3 don't do it, they ignore it.

4 The fact that they actually  
5 did it and did something and  
6 started to make changes and spent  
7 money, like, real money to put in  
8 an IT system and do all these  
9 things that they were doing,  
10 that's commendable.

11 You have publicly traded  
12 companies that don't even do that.

13 BY MR. CARTER:

14 Q. And, again, the actions that  
15 you're just describing were the ones that  
16 you reference from 1997 forward?

17 A. You keep focusing in on  
18 that, and I'm going to tell you that I  
19 believe that, based on what I saw and the  
20 evidence that I looked at, from 1992 to  
21 2002, you know, with the level of  
22 documentation, that there was a control  
23 consciousness that dated back to 1992.

24 1997, again, could have been

This transcript contains confidential material

1 something -- there might have been some  
2 precipitating event. I just don't know.

3 But I do know that based on  
4 my internal control experience, based on  
5 my review of charitable organizations,  
6 based on my overall audit experience,  
7 based on my forensic skills and  
8 capabilities, that organizations that do  
9 this are very, very rare.

10 And, like I said, the fact  
11 that they actually did this is somewhat  
12 commendable.

13 MR. CARTER: If we can, I'd  
14 just like to mark as the next  
15 exhibit the article at Tab 10.

16 - - -

17 (Whereupon, Exhibit  
18 Marks-970, No Bates, A Violation  
19 of Trust: Fraud Risk in Nonprofit  
20 Organizations, Marks, was marked  
21 for identification.)

22 - - -

23 BY MR. CARTER:

24 Q. Mr. Marks, is this an

1 A. Absolutely.

2 Q. All right. Terrific.

3 MR. HAEFELE: I'm going to  
4 ask if we could pull up what was  
5 previously marked as Exhibit-962.

6 BY MR. HAEFELE:

7 Q. And, Mr. Marks, 962 is the  
8 Baker Tilly invoices that we marked  
9 earlier today.

10 Do you remember those?

11 A. Yes.

12 Q. All right. I'm going to ask  
13 if we could flip over to Page 3 for a  
14 moment.

15 MR. GOETZ: Robert, sorry to  
16 interject, but we did send that  
17 other invoice to counsel. So if  
18 you check your inbox, you should  
19 have that as well, just for your  
20 reference, if you're talking about  
21 this.

22 MR. HAEFELE: Thanks.

23 Actually, that's a good point.

24 I don't know if somebody

1 from Cozen's office can -- if I  
2 can ask them if they would load  
3 that to the file share for the  
4 technologist, please.

5 Is that possible, either  
6 Scott or Sean?

7 MS. INT-HOUT: You can  
8 actually load it directly in chat  
9 and I can grab it.

10 MR. HAEFELE: Okay.  
11 Actually, let's do that. Let's  
12 take a break at some point and do  
13 that. Let's keep going on now,  
14 though.

15 MR. CARTER: We just  
16 e-mailed it to her.

17 MR. HAEFELE: Great. Great.

18 BY MR. HAEFELE:

19 Q. So we're taking a look at  
20 Page 3 of Exhibit-962.

21 And do you see that, Mr.  
22 Marks?

23 A. Yes.

24 Q. I'm going to refer you, on

1 into four general categories.

2 And then Mr. Carter asked  
3 you some specific questions about some of  
4 those categories.

5 Do you recall those  
6 questions?

7 A. I do.

8 Q. And you wanted to explain  
9 some of your answers, but you didn't have  
10 the opportunity.

11 What explanation did you  
12 want to give?

13 A. Just that I mentioned that  
14 these are red flags, and a red flag does  
15 not mean that there is fraud.

16 A red flag is an observable  
17 event that should cause an individual to  
18 stop, evaluate and, if need be,  
19 investigate further. That's it.

20 Q. So failure to reconcile  
21 accounts in a timely manner, is that --  
22 while a red flag, is that indicative, in  
23 and of itself, of fraud or improprieties?

24 A. No.



1 Q. Accounts with many large  
2 round numbers or transactions that are  
3 unusually large or small, is that, in and  
4 of itself, indicative of fraud?

5 A. No.

6 Q. And as you said, I think  
7 earlier at the beginning of your  
8 testimony, you're not saying that there  
9 were no red flags in your review of any  
10 of the WAMY material, are you?

11 A. No.

12 Q. But did any of those rise to  
13 the level where, in your opinion, there's  
14 any evidence of fraud or financial  
15 improprieties, money laundering, anything  
16 like that?

17 A. No. Based on my review of  
18 the financial information, which, if you  
19 allow me one second here, which I  
20 considered and our team considered the  
21 audit reports, the bank statements, the  
22 bank reports, the receipts, financial  
23 reports, project reports, of which there  
24 were over 800 of, operational reports,

1 Q. Does the lack of audits from  
2 those chapters, is that at all a concern  
3 for you in your overall review of the  
4 evidence in this case?

5 A. No. There are other  
6 financial -- other financial records and  
7 other financial information available for  
8 us to evaluate. And having those -- just  
9 the mere fact of having that information  
10 there is a control all in itself.

11 Q. Other financial information  
12 from those countries?

13 A. Correct.

14 Q. And, lastly, Mr. Haefele  
15 asked you some questions, he broke down  
16 some numbers about the invoices.

17 Accepting his numbers, it  
18 looks like you billed 78.5 hours for  
19 report-related work while other members  
20 of your team billed, collectively,  
21 27.5 -- 275.8 hours for report-related  
22 work; is that right?

23 A. That's correct.

24 Q. But you testified that you